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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,365	03/22/2004	Marguerite Sallas	SMS001/135211	2593
23444	7590	10/05/2005	EXAMINER	
ANDREWS & KURTH, L.L.P. 600 TRAVIS, SUITE 4200 HOUSTON, TX 77002			PATEL, TAJASH D	
		ART UNIT	PAPER NUMBER	
		3765		

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/812,365	SALLAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tejash D. Patel	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 24 June 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12 is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4, 6 and 8-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson (US 4,561,124). Thompson discloses a garment (11) having an outer fabric covering the legs having inner pocket panel being coupled to an inner surface of a inner lining of the garment by permanent stitching (23, 24) as shown in figure 4. Further, a removable knee pad (31) is positioned between the pocket panel and the inner lining as shown in figure 4. In addition, a retaining panel (35) is disposed between the pocket panels and the inner lining as shown in figures 8 and 9. Furthermore, each of the pocket panel is defined by four edges that forms a first edge over the covering and is unfastened thereto while the second, third and fourth edges are connected to the covering so that the removable pad van be disposed between the pocket and the first folded edge as shown in figure 6. Also, the liner substantially covers the entire outer fabric covering between the inner and outer inseams as shown in figure 4.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson.

With regard to claim 3, it would have been obvious to one skilled in the art to position the pocket panel on an outer surface of the inner lining as an alternative but equivalent means of securing a kneepad about the garment as known in the art.

With regard to claim 5, it would have been obvious that the kneepad can be permanently secured to the pocket panel and inner lining in order to maintain the kneepad in a fixed position relative to the garment.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson as applied to claim 1 above, and further in view of Walton (US 6,317,893). Warner discloses the invention as set forth above except for showing the inner liner being removable.

Walton discloses a garment having pockets with kneepads having a removable inner lining, col. 6, lines 13-47 and as shown in figure 4.

It would have been obvious to one skilled in the art at the time the invention was made to substitute the inner lining of Thompson with a removable lining as taught by Walton. Doing so, would allow soiled or damage lining to be easily replaced or depending on the end use thereof.

*Response to Amendment*

6. The arguments and amendment filed on June 24, 2005 has been considered. In view of such, the amendment has necessitated this office action to be made FINAL. New claim 12 has been indicated allowable over the prior art. The Applicant argues that "Thompson '124 does not describe a garment with an inner lining as is ordinary understood in the art". The Examiner, respectfully disagrees since Thompson '124 discloses a pocket (20) defining two layers, with the outermost layer being interpreted as an inner lining as known in the art, that is covered by the outer fabric from inner and outer inseams as shown in figure 2.

*Allowable Subject Matter*

7. Claim 12 is allowable because the prior art does not teach or suggest the recitation therein including an infant pants having an inner lining disposed inside of an outer fabric covering with first edges of first and second pockets being folded against the inner lining respectively, in combination second, third, and fourth edges of the first and second pockets secured to the inner lining in a knee region such that first and second pads are received in the first and second pockets with a first leg section having a longitudinal openable seam.

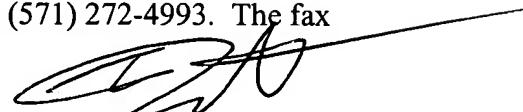
***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax phone number for this group is (571) 273-8300.



**TEJASH PATEL**  
**PRIMARY EXAMINER**

September 30, 2005